

**BOARD OF PUBLIC WORKS AND SAFETY**  
**September 25, 2007**

Regular Session:

The Board of Public Works and Safety met in regular session on Tuesday, September 25, 2007 at 9:00 a.m. in the Common Council Chambers. Members present were: Cindy Murray, Gary Henriott, Tom Shorter, Norm Childress and Tilara McDonald-Treece.

Ed Chosnek, City Attorney, was also present.

President Murray called the meeting to order.

**MINUTES**

Mr. Shorter moved for approval of the minutes from the September 18, 2007 regular meeting. Mr. Henriott seconded. Passed.

**OLD BUSINESS**

*Notice to Proceed - House Demolition – 1121 N. 8<sup>th</sup> Street and 1319-1321 N. 18<sup>th</sup> Street (Tabled until time uncertain)*

President Murray stated the Notice to Proceed would remain tabled.

**NEW BUSINESS**

**Engineering**

*Permanent Easement – L.B. Associates, LLC Key# 180-18000-0011*

Jenny Bonner, Public Works Director, presented to the Board and recommended approval of a permanent easement for L.B. Associates, LLC to construct a watermain across the property. Mrs. Bonner stated the easement was 15' wide. Mr. Henriott moved for approval. Mrs. McDonald-Treece seconded. Passed.

*Certificate of Completion, Final Waiver of Lien and Guarantee – Elliott Interceptor Replacement – Phase I Project*

Mrs. Bonner presented to the Board and recommended approval of Certificate of Completion, Final Waiver of Lien and Guarantee for Atlas Excavating, Inc. for the Elliott Interceptor Replacement Phase I Project. Mrs. Bonner stated the total contract was in the amount of \$2,080,607.08. Mr. Childress moved for approval. Mr. Shorter seconded. Passed.

**CLAIMS**

Paula King, Accounts Payable, presented for Board approval, Claims in the amount of \$1,439,552.79. Mr. Shorter moved for approval. Mr. Childress seconded. Passed.

## **MISCELLANEOUS**

*Banner Request – Holiday Merchant Open House, Dickens of a Christmas, Community Sing and Holiday Lighting Ceremony and Christmas Parade*

Dennis Carson, Director of Development, presented to the Board and requested permission to hang a banner across Main Street from October 23 through December 4, 2007 to promote the Holiday Merchant Open House, Dickens of a Christmas, Community Sing and Holiday Lighting Ceremony and the Christmas Parade. Mr. Shorter moved for approval. Mrs. McDonald-Treece seconded. Passed.

*Proclamation – Indiana Preparedness Week*

Mayor Roswarski read aloud the following proclamation:

### **INDIANA PREPAREDNESS WEEK**

WHEREAS, one of the most profound responsibilities of Indiana's government is to ensure the safety and security of Hoosiers during emergencies and disasters of all kinds, including terrorism; and

WHEREAS, the loss of life and property can be greatly reduced if appropriate prevention and preparedness, measures are taken before and after a large scale disaster or event; and

WHEREAS, all Hoosiers have a responsibility to contribute to their own safety and security as part of a larger campaign of national preparedness; and

WHEREAS, education and awareness are essential to any preparedness program; and

WHEREAS, Hoosiers can greatly reduce the risk of death, injury, and property loss by putting together a home preparedness kit, making an emergency plan; and keeping informed.

NOW, THEREFORE, I, Tony Roswarski, Mayor of the City of Lafayette do proclaim September 25, 2007 as: INDIANA PREPAREDNESS WEEK

President Murray recognized the Mark Kirby, Tippecanoe Emergency Management Association Director and Amy Philpott, American Red Cross in the audience.

President Murray reminded everyone that the Board of Public Works and Safety meeting scheduled for Tuesday, October 2, 2007 has been rescheduled to Wednesday, October 3, 2007.

President Murray announced that a retirement party will be held for Rick Shonkwiler on Friday, September 28, 2007 from 1:00 p.m. to 3:00 p.m. at the Water Pollution Control Plant. Mr. Shonkwiler has been with the City approximately 26 years.

President Murray requested a motion from the Board to take a five-minute recess before the scheduled Grievance Appeal Hearing. Mr. Henriott moved to recess the meeting. Mrs. McDonald-Treece seconded. Passed.

The time being 9:07 a.m.

*Sanitation Department Grievance Appeal Hearing – Eddie W. Crabtree*

Mr. Shorter moved to reconvene the Board of Public Works and Safety meeting back into open session. Mr. Henriott seconded. Passed.

The time being 9:15 a.m.

Present were Board members Cindy Murray, Gary Henriott, Tom Shorter, Norm Childress and Tilara McDonald-Treece as well as City Attorney Ed Chosnek.

Also present were: James Ausban, Union Representative, City of Lafayette Employee Alliance (CLEA), Troy Kingma, Union Representative International Brotherhood of Electrical Workers (IBEW).

Mr. Chosnek stated Eddie W. Crabtree was employed with the City in 2004 and terminated effective September 5, 2007. Mr. Chosnek noted that Mr. Crabtree was present with his IBEW representative, Troy Kingma. Mr. Chosnek explained he would like to highlight for Board Mr. Crabtree's employment with the City, the reason for his termination and then Mr. Crabtree could present his appeal to the Board as to his position regarding his termination. Mr. Crabtree was employed as a driver collector in the Motor Vehicle Department in the sanitation division. Mr. Chosnek requested the record to reflect the filing of the Notice of Hearing that was delivered to Mr. Crabtree and his representative which shows service on them and they are both present for the appeal. The appeal was timely scheduled for the first available Board of Works meeting from the time that the appeal was filed. Mr. Chosnek resumed his summarization of Mr. Crabtree's employment with the City by asking Mr. Crabtree to look at his job posting for the job that he had, noting that it is a standard job posting for driver collector positions with the sanitation department, it has a number of requirements; however the main and first requirement is that the employee have a Class B Commercial Driver's License (CDL) license. Mr. Chosnek asked Mr. Crabtree and the Board to look at the job description that was written for this position, last revised on June 2001, the requirements also states, under I. SKILLS AND KNOWLEDGES, the position requires the possession of a valid Class B Commercial Driver's License (CDL) and demonstrated safe driving record. The duties were basically, although operating a refuse truck as their primary duty, this particular job requires assistance in operating various trucks and equipment in clearing and maintaining City streets, right-of-way's, hauling materials such as a dump truck, back hoe, grader, snow plow, salt spreader, front end loader, tractor and chipper. Mr. Chosnek stated there was cross training in the Street and Sanitation Departments. The job posting description as well as the job description was distributed to the Board with attachments. Mr. Chosnek also stated the City's insurance coverage will not cover any employee without a CDL License (Tape inaudible). Allowing Mr. Crabtree to continue employment without that requirement would expose the City to substantial liability for any activities that he might perform. The reasons Mr. Crabtree was terminated is, referring to the attachment from the State of Indiana Bureau of Motor Vehicles (BMV) along with Mr. Crabtree's driving record, also attached, reflects his CDL license was suspended, he does not currently have a license. There is some uncertainty as to when that license will be available. Mr. Crabtree indicated he may get it as early as January 2008. Mr. Chosnek stated a plain reading of the documents seems to think that it may be a year, until September 2008 before he will be eligible for the license. Even if he gets his CDL license, he may not be an insurable employee under the City's insurance policy and therefore not be able to perform approximately 90% of functions that are required in the department.

As a result of that the supervisor, with the follow-up of an appeals process to the Department Head have upheld his termination as not being able to fulfill the duties of Mr. Crabtree's job and is making this appeal to the Board.

Mr. Chosnek asked if there were questions by the Board regarding the factual summary as provided, if not he asked that Mr. Crabtree and or his representatives make any statements regarding this Appeal. There were none.

James Ausban, President of the City of Lafayette Employee Alliance (CLEA), stated he wanted to afford the opportunity to Mr. Crabtree to present to the Board his side of the events and why the Appeal is being made. Mr. Ausban stated he would let Mr. Crabtree tell the Board in his own words from the beginning how it started and why he feels that an opportunity should have been given to him to possess another job temporarily, stating a probation period was sought after, because they believe he can get his CDL license back by January 20, 2008. Mr. Ausban then referred to Mr. Crabtree.

Mr. Crabtree stated he did not feel that he has hurt the City and done anything wrong to the City, because he has always come to work, done his job and done it well. He stated he has been complimented by the Mayor and on work he has performed daily. He has worked for the City for the last six (6) weeks without a driver's license, period, and was informed by the State of Indiana BMV that he would be entitled to driving a municipal vehicle with a conditional license through the probationary period. Mr. Crabtree stated he had just been informed by the City that the insurance would not take care of persons with a conditional license, stating he would never had pled guilty to the charge of Operating While Intoxicated (OWI) in the first place. The reason why he did plead was to get the ball on the road, get everything behind him and get back to his job duties. Mr. Crabtree stated the event was a mistake; he was on fishing trip across the road from his house and wasn't even in the vehicle when the police officer pulled up, but was still arrested for an OWI and pled guilty to it in order to obtain his conditional license so that he could get back to his job duties. Mr. Crabtree stated he had paperwork in his pocket stating that he can be reinstated with a CDL license January 20, 2008. Mr. Crabtree stated he had worked this long without a driver's license and everything has gone fine, never had any problems, showed up to work every day, done his job and went home. Mr. Crabtree stated he cannot figure out why the City of Lafayette could not work with him a few more months until he got his CDL reinstated, stating he knows there are jobs available in the department he could do such as; throw brush or labor he could do on the back of a truck.

President Murray asked the Board for questions of Mr. Crabtree. There were none.

Troy Kingma, *CLEA* Union Representative, stated Mr. Crabtree had covered the events and stated he was available for questions by the Board. Mr. Chosnek questioned the department's reaction to his situation. Mr. Crabtree stated he was arrested on June 3, 2007 and told his head supervisor and told him his situation and what was going on. But whether he was guilty or not guilty of the charges the State of Indiana was going to suspend his driver's license for an automatic 30 days. After telling the Street Commissioner the situation and he and his lawyer were going to fight the charges that is when the conditional license was discussed so that he could drive a municipal vehicle for 180 days that his CDL license would be suspended. Mr. Chosnek clarified that after Mr. Crabtree acknowledged and told the Street Commissioner that he had pled guilty to the charges and had a suspended license asked if it was shortly after that he was told he could not continue working for the City of Lafayette. Mr. Crabtree stated yes sir and that he was always under that assumption, he spent two (2) months back and forth from Lafayette to Indianapolis at the State of Indiana BMV trying to get the situation straightened out so that he could get back to his job. Mr. Crabtree added it took four (4) long years to get on with the City of Lafayette and has been there for three years and feels he has done the City a good job and just wants to save his job if the City will work with him until he can get his reinstatement, he made a mistake and everyone is entitled one and he feels he is paying for it pretty dearly right now. Mr. Shorter questioned even if the CDL is reinstated, the insurance company won't insure that individual with such an infraction. Mr. Chosnek referred the question to Mr. Henriott. (Tape inaudible) Mr. Henriott stated insurance companies insuring commercial vehicles are not going to allow someone in a driving position for three to five years. Even if Mr. Crabtree obtains his license back in January 2008 he would not be allowed to drive, not even by City policy. Mr. Ausban questioned if that was new coverage.

Mr. Henriott stated it was not, it has been that way for the last 15 years. Mr. Kingma stated there have been jobs switched around in the departments, so that Mr. Crabtree would not have to drive a truck by going to a labor position stating as they do now cover for them that way sometimes and had asked Mr. Chosnek that consideration when they met with him. Mr. Henriott was not commenting on internal policies and what opportunities are available, stating that is a Human Resource and Department issue, this situation Mr. Crabtree was hired as a driver, collector and cannot do that job. Mr. Chosnek stated it was his understanding from Lou Hill, Human Resource Director, that there are no jobs available currently that would allow that kind of job transfer. Mr. Crabtree was hired as a truck driver that is the position he is being terminated from. Mr. Chosnek asked confirmation from Hill who was also present in the audience. He nodded in favor of Mr. Chosnek's statements. Discussion ensued regarding Mr. Crabtree moving to another position and the posting of City positions. Mr. Crabtree stated through his service with the City he has seen with in a department the switch of positions back and forth without job postings. Mr. Crabtree felt it was unfair to him, that certain employee's have had that happen but exception cannot be made for him. President Murray stated it would not be responsible of the Board to make such a decision. Mr. Childress questioned Mr. Crabtree's violation. Mr. Crabtree explained what his attorney had told him regarding the OWI violation. Mr. Childress questioned his plea to the violation. Mr. Crabtree stated he wouldn't have pled guilty to the violation had he known there wasn't any hope with his conditional license to get him back to his job duties, he would have fought it out in court. Mr. Childress questioned the basis for making that decision. Mr. Crabtree stated he was informed by the Indiana State BMV that a conditional license would get him back and forth to work, to the hospital, store and to his job, along with driving municipal vehicles. Mr. Childress clarified the promises of the conditional driving were made through the State of Indiana and not through the City of Lafayette. Mr. Crabtree stated that was correct.

Mr. Kingma thanked the Board for listening to Mr. Crabtree's side of the situation.

Mr. Ausban stated they felt there was an opportunity for an appeal because they are very aware of other employees who have gotten DUI's and have been able to transfer jobs to continue in their employment and along with being aware of employee's without CDL licensing that are operating vehicles which are transferred from the Street Department to the Sanitation Department. It has been common practice to move personnel around to where they are needed. Mr. Ausban stated he was aware of a couple of instances (not wanting to mention names) where people have been on loadalls who have had DUI's who kept their jobs and doesn't understand, according to the insurance issue, why was it done in the past and not now. Mr. Ausban also stated the job postings went up after the termination had happened and they were not aware of what personnel policy the requirements had come out of regarding the criteria of the licensing, stating they would not come to the Board if it were zero tolerance, cut and dried. Mr. Chosnek stated the point of this hearing was not that he got a DUI, the point of this hearing is that the CDL licensing and being an insurable driver are requirements of his position and he cannot meet either one. (Tape inaudible) It makes no difference how Mr. Crabtree lost his CDL license it's the fact that he can not perform his duties. Mr. Chosnek replied to the other prior issues of job placement as stated by Mr. Ausban, if something was not caught in the past doesn't mean that this Board will not try to follow the rules when aware, stating the worst thing that could happen to the City is to have an uninsured driver drive his garbage truck over somebody.

Mr. Ausban felt it was discriminatory to have allowed it in certain, but not in every instance. Mr. Henriott acknowledged the requirement as listed in Mr. Crabtree's job position and his current driving situation, and also appreciates Mr. Crabtree's past service to the City along the job requires a CDL license and Mr. Crabtree does not have one. Mr. Ausban thanked the Board.

Mr. Chosnek suggested a motion from the Board to affirm the Department Heads recommendation of the termination of Eddie W. Crabtree. Mr. Childress moved to affirm the decision. Mr. Shorter seconded. Passed.

There being no further business to come before the Board, President Murray stated the meeting was adjourned.

The time being 9:43 a.m.

BOARD OF PUBLIC WORKS AND SAFETY  
Cindy Murray s/s  
President

ATTEST: Deb Puetz s/s  
Deb Puetz, 1<sup>st</sup> Deputy Clerk

Minutes written by Deb Puetz, 1<sup>st</sup> Deputy Clerk

The Engineering Office issued the following Building Permits for the week ending September 21, 2007:

13938	Midwest Rentals	2725 US 231 S	Installation of tanks	\$3,500.00
13939	INOK Investments LLC	4105 Haggerty Ln	Interior build out Famer	\$70,000.00
13940	Baljinder Singh	2001 Main St	Replace electric panel	\$400.00
13941	Kevin Homberg	1015 N 21st St	Upgrade 100 amps	\$775.00
13942	Ron Whistler	Park East Blvd	Sign for entrance to Cascada Villas	\$30,000.00
13943	Cathy Foster	1227 N 28th St	Repair riser	\$600.00
13944	Art Museum of Greater Lafayette	102 S 10th St	Canopy over existing entry	\$22,600.00
13945	John Flack	1219-1221 Brown St	Replumb existing gas & water supply	\$2,300.00
13946	Dawn Anson	1000 Potomac Ave	Upgrade 200 amps	\$1,000.00
13947	RPM Inc	3205 Majestic Ln	Demo drwyall & roof	\$0.00
13948	David & Louise Dant	3708 Spring Ct S	Deck	\$2,500.00
13949	RPM Inc	3205 Majestic Ln	Fire restoration #4	\$4,500.00
13950	Apostolic Faith Assembly	100 Murphy St	Replace flat roof with gable	\$1,000.00
13951	Christopher Smith	3635 Round Rock Ct	Finish basement	\$20,000.00
13952	Tempest Homes LLC	2709 Gulfstream Ln	Single family residence	\$106,000.00
13953	Friendly Village	149 Bordeaux Blvd	Rewire existing 100 amp service	\$600.00
13954	Friendly Village	98 Bordeaux Blvd	Rewire existing 200 amp service	\$400.00
13955	Friendly Village	34 Bellefont	Rewire existing 100 amp service	\$400.00
13956	Jim Wagner	3700 Redbud Ave	Remove garage	\$3,000.00
13957	Tippecanoe County Fairgrounds	1401 Teal Rd	Event sign for Roswarski fund raiser	\$25.00
13958	Klassy Klutter	2137 S 4th St	Event sign 9/21-10/12	\$25.00

*\*An audio recording of this meeting is available in the Lafayette City Clerk's Office.*